favor of the view of Lindley, L. J., for if title has not passed as between the original owner and the *bona fide* purchaser, but has passed by estoppel as between the warehouseman and the latter, we should have a curious state of affairs. If the warehouseman knowing he was estopped gave up the goods to the purchaser, or if the purchaser replevied them, there would be nothing to prevent the original owner from bringing trover or replevin against the purchaser, for *ex hypothesi* the title has not passed as between them, and so in that case the loss would fall on the purchaser. If on the other hand the warehouseman, being indemnified by the owner, refused to give up the goods, and the purchaser brought trover, the final loss would fall on the original owner.

INDICTMENT AND INFORMATION. — The defects of our grand jury as a means of beginning a criminal action have long been recognized, but the difficulties in the way of any radical change are by no means insignificant. In some States the power of district attorneys or County Prosecutors to begin proceedings by information is extensive, and in two at least, Connecticut and California, this power is coming into frequent exercise. In Connecticut the prosecution of any offence not punishable by death or imprisonment for life, in California the prosecution of any offence whatever may begin by information (Conn. Gen. St. §§ 1599, 1610. Cal. Const., Art. 1, sect. 8. Deering's Penal Code, §§ 809, 888). It will be interesting and profitable to observe the results of this experiment. That such a procedure has many advantages is obvious. It is quickly set in motion, errors are easily remedied, and the whole course of proceedings much accelerated. On the other hand the power thus given the district attorney is very great, and should have ample guaranties against misuse. It is not likely that we shall evolve out of this an office much like that of the Public Prosecutor (*Staatsanwalt*, *Procureur de la Republique*) on the Continent of Europe. There seems to be no disposition here to intrust any single official with the sole power and duty of instituting criminal proceedings. The grand jury is probably in no danger of being abolished, or of having the scope of its action much limited by law. But it is not improbable that the near future will see some considerable extension of the information as a concurrent alternative process. If this alternative process is wisely regulated, it is pretty certain that the grand jury will have little to do.

The grand jury originated at a time when the administrative machinery for the detection of crime was very crude and defective. Its retention in later centuries was chiefly due to political reasons. It furnished a tolerably safe protection against governmental tyranny and oppression. That was the light in which the founders of our American judicial systems still regarded it. But the past century has made great political changes, here and in England. We no longer fear the encroachments of a government above the people. As a defence against judicial usurpation the grand jury is no longer necessary. Viewed by itself it is seen to possess many defects. It is a secret, irresponsible body, offering some opportunity for the gratification of private malice or revenge. It is usually composed of men not well fitted to discharge such duties as rest upon it. It is swayed by popular passion and prejudice. We have all seen how tenderly it deals with lynchers. Its findings are frequently influenced by local political views. It cannot meet often, and when it does,

the bills must generally be passed on very hastily. Finally, defects or errors in indictments are remedied only with great difficulty and delay.

In many of these respects a single responsible official would be an improvement. The old reasons no longer deter us from intrusting to an officer of the government the power of putting men on trial for criminal offences. What we do have to guard against now is the misuse of such a power by reason of bribery, partisanship, or personal spite. On the one hand, proper prosecutions must not be suppressed; on the other, improper ones must not be commenced. An ample safeguard against the first evil is furnished in all our States by the retention of the indictment beside the information. In our law any person may set the courts in motion. On the Continent the Public Prosecutor does not, to be sure, possess the power of indicting or putting a suspected person on trial. That is done by a court, consisting generally of three judges. But the Prosecutor has the sole power, except in a few cases, of starting the preliminary examination. That is not desirable here, and is not likely to become the law in any of our States.

On the other hand, where our district-attorneys are invested with the power of proceeding by information in a large number of criminal cases, the law must guard the public from the institution of proceedings from corrupt or improper motives, as for purposes of extortion, for instance. Here the California statutes seem to have devised a sufficient protection by requiring a preliminary examination and commitment before the filing of an information (Deering's Pen. Code, §§ 809, 888). Apparently the Connecticut statutes provide no similar safeguard. In both States the information is frequently used, and apparently with the decided approval of the legal profession and the public generally. It would seem as if the example set by California were worthy of careful consideration in other States. Our criminal procedure is likely to receive considerable attention before very long. Lynching is not the only protest against its defects. There is a pretty general belief that some radical changes might be made with advantage (*cf.* the article by Mr. H. W. Chaplin in 7 HARVARD LAW REVIEW, 189). Possibly our law treats the prisoner with too much consideration. Certainly a criminal cause often proceeds at an aggravatingly slow pace and any reform looking toward the diminution of delays is desirable.

RECENT CASES.

BILLS AND NOTES — NEGLIGENCE. — Defendant accepted a £500 bill on a stamp sufficient for a £4,000 bill, so drawn that it was easily changed to £3,500, and afterwards bought by plaintiff in good faith. *Held*, affirming the decision of CHARLES, J. (63 L. J. Q. B. 649), that there was no duty of care toward plaintiff and no estoppel to set up the alteration. *Scholfield* v. *Earl of Londesborough*, 11 *The Times* Law Rep. 149. Compare *Young* v. *Grote*, 4 Bing. 253, and see NOTES.

CARRIERS — DROVER'S PASS — UNLAWFUL EJECTMENT. — Where a railroad contracts to transport live stock to a point on a connecting road, with an express limitation of liability to its own line, and at the same time issues a drover's return pass through to the destination of the stock, with no such limitation. *Held*, the liability of the first railway is not limited to wrongs suffered by the drover as a passenger on its own line, but it is responsible for his unlawful ejectment from the train of the connecting carrier. *Gulf, C. & S. F. Ry.* v. *Cole*, 28 S. W. Rep. 391. FISHER, C. J., dissenting. See NOTES.